

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL WRIT PETITION NO.1222 OF 2007

M/s. Astec Life Sciences Ltd.,
and others Petitioners
Vs.
The State of Maharashtra and
others Respondents

Shri Subhash Jha i/b M/s. Law Global for
the Petitioners.

Shri V.B. Konde-Deshmukh, A.P.P., for the
Respondent Nos.1 and 2.

CORAM: R.M.S. KHANDEPARKAR &
S.R. SATHE, JJ.

DATED: JULY 27, 2007

ORDER (Per R.M.S.Khandeparkar, J.):

1. Heard. By the present petition, the petitioners are seeking to quash the FIR No.I-164/07, registered at MIDC Waluj Police Station at Aurangabad on the ground that the transaction in respect of which the offence is alleged is purely of civil nature. The learned Advocate for the petitioners sought to rely upon the decisions in the matters of **Madhavrao Jiwajirao Scindia and others v. Sambhajirao Chandrojirao Angre and others**, reported in (1988) 1 SCC 692, **Sunil Kumar v. Escorts Yamaha Motors Ltd. and others**, reported in (1999) 8 SCC 468, **G. Sagar Suri and another . State of U.P. and others**, reported in (2000) 2 SCC 636, **S.W. Palanikar and others v. State of Bihar and another**, reported in

(2002) 1 SCC 241 and of this Court in **Korra Srinivas Rao Krishnamurthy & another v. State of Maharashtra & others**, reported in 2002 (Supp.2) Bom.C.R. 89 in support of the various contentions sought to be raised while challenging the impugned FIR.

2. Undisputedly, the FIR has been registered at Aurangabad and in that regard it is the contention of the petitioners that although the FIR has been registered at Aurangabad and the petition seeking to quash the same can be filed at Aurangabad Bench of this Court, yet considering the fact that the petitioners have their office at Mumbai and they have their plant situated at MIDC, Dombivli, District Thane and at Mahad, District Raigad which are within the jurisdiction of this Court and Bench and further more the goods in question were despatched from Dombivli, District Thane and the orders were placed at Mumbai and the goods were discharged from Dombivli, District Thane in pursuance of the orders received at Mumbai and, therefore, since the material cause of action has arisen within the territorial jurisdiction of this Bench of this Court, it has necessary and requisite territorial jurisdiction to exercise the powers under Article 226 of the Constitution to quash and set aside the impugned FIR.

3. As already observed above, undisputedly, the FIR has

been registered at MIDC Waluj Police Station at Aurangabad. In terms of Chapter XXXI, Rule 2 of the Bombay High Court Appellate Side Rules, 1960, all appeals, applications, references and petitions including petitions for exercise of powers under Articles 226 and 227 of the Constitution arising in the Judicial Districts of Ahmednagar, Aurangabad, Beed, Jalgaon, Jalna, Nanded, Osmanabad, Parbhani and Latur which lie to the High Court at Bombay shall be presented to the Registrar at Aurangabad and shall be disposed of by the Judges sitting at Aurangabad, provided that the Chief Justice may, in his discretion, order that any case or class of cases arising in any such District shall be heard at Mumbai.

4. The Section 154(1) of the Code of Criminal Procedure, 1973 provides that every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction. And further, the sub-section (3) provides that any person aggrieved by a refusal on the part of an officer in charge of a police station to record such information may approach the Superintendent of Police in that regard. The Section 156(1) of the Code of Criminal Procedure, 1973 provides that any officer in charge of a police station may, without the order of a Magistrate,

investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

5. Obviously, therefore, the police officer taking notice of a cognizable offence can investigate into such offence provided the same has been committed within the limits of the jurisdiction of such police station. Accordingly, the FIR apparently discloses the place of offence to be "D-73 Waluj" within the jurisdiction of the MIDC Waluj Police Station, Aurangabad.

6. The concept of the cause of action which is known to civil proceedings in terms of the Code of Civil Procedure in terms of Part-I thereof is totally different from the concept of the place of offence for the purpose of enabling the police authorities to take cognizance in order to investigate into any such offence. The jurisdiction in that regard, as already observed above, is prescribed under Section 154 r/w Section 156 of the Code of Criminal Procedure and the provisions of Section 16 onwards of the Code of Civil Procedure have no application to such cases. Merely because the petitioner contends that the cause of action for the purpose of seeking recovery of of the amount in relation to the goods supplied might have arisen at

Dombivli and Mahad, within the territorial jurisdiction of the Bench of this Court, that would not entitle the petitioners to file petition challenging the FIR lodged at Aurangabad in relation to the offence alleged to have been committed within the territorial jurisdiction of the MIDC Waluj Police Station which is at Aurangabad.

7. Being so, without going into the merits of the case on the point of lack of territorial jurisdiction itself and considering the provisions of Chapter XXXI of the Bombay High Court Appellate Side Rules, 1960, the petition is to be returned to the petitioners in order to enable them to present the same at Aurangabad. Order accordingly.

(S.R.Sathe, J.)

(R.M.S.Khandeparkar, J.)

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